

February 4, 2000

**VIA ELECTRONIC FILING**

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: CC Docket No. 96-45, DA 99-2985

Dear Ms. Salas:

Transmitted herewith, on behalf of the National Rural Telecom Association (NRTA) is an electronic copy of its comments in the above-referenced proceeding.

In addition, three paper copies of this filing are being hand delivered to Sheryl Todd in the Accounting Policy Division of the Common Carrier Bureau. A diskette copy is also being hand delivered to the FCC's contractor, International Transcription Services, Inc.

In the event of any questions concerning this matter, please communicate with this office.

Very truly yours,

Margot Smiley Humphrey

Enclosure

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Federal-State Joint Board on	)	
Universal Service:	)	CC Docket No. 96-45
Promoting Deployment and	)	DA 99-2985
Subscribership in Unserved	)	
and Underserved Areas, Including	)	
Tribal and Insular Areas	)	

**COMMENTS OF THE NATIONAL RURAL TELECOM ASSOCIATION**

The National Rural Telecom Association (NRTA) submits these comments in response to the Commission's request for comments on the proposal of the Rural Utilities Service for revision of the universal service definition of voice grade service adopted in the above-captioned proceeding. NRTA is an association of incumbent local exchange carriers (ILECs) that obtain financing under Rural Utilities Service (RUS) and Rural Telephone Bank (RTB) programs. NRTA members are "rural telephone companies" under the definition in §153(37) of the Communications Act, as amended and codified.

NRTA, as part of the Rural Telephone Coalition, was a principal proponent of the 1996 Act's commitment to universal service as an "evolving" definition that must be available nationwide under the principle of reasonably comparable rates and services for rural and urban areas. 47 U.S.C. § 254 (b)and (c). NRTA also supports the statutory policy for advancing nationwide network capabilities set forth in § 706. In keeping with our own commitment, NRTA warmly endorses the commitment of the Rural Utilities Service (RUS) to ensuring that these

fundamental promises of the 1996 Act are fully achieved on a timely and reasonably equivalent basis for rural residences and businesses. NRTA also supports federal initiatives that will enable rural providers to keep the Act's promises that improvements will not stop at the edge of urban and suburban markets, but will extend even to the most sparsely populated areas where costs per customer for evolving service exceed those in more densely populated, higher volume markets.

NRTA also agrees with RUS (see, e.g., p. 9) that sound government policy and sound use of resources are not served by encouraging, let alone requiring or subsidizing, continuing deployment of technological solutions that are not readily capable of evolving as customer needs and technological capabilities improve. NTCA's comments (p. 2)<sup>1</sup> agree with RUS that "new plant should be designed to accommodate higher data transmission speeds," but explain that simply changing the voice grade service definition would not advance this goal. Moreover, the other comments have made a compelling case that the specific change in the definition of voice grade universal service that the RUS and some states have proposed is not a technologically efficient or cost effective means to reach the goal of reasonably comparable network evolution that NRTA shares with RUS. For example, several comments explain that achieving a 28.8 kilobits per second Internet access speed for rural customers is not necessary for high quality voice grade service and can even diminish the quality of voice service, as when voice maximizing technology is simply removed to accommodate data carriage.<sup>2</sup> Others point out that using the

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<sup>1</sup> Comments are cited by the name or acronym of the filing party and the referenced pages.

<sup>2</sup> Citizens, pp. 3-4.; NECA, p. 4 ("revising the current standard [without more support] would not only fail to improve access to better data services, it could increase the cost and decrease the availability of *voice-grade* universal service"); Nortel, pp. 3-4; USTA, pp. 4-9 In contrast, RUS advocates pursuing rural and urban comparability by identifying urban voice grade

strategy of redefining voice grade service for the real purpose of incorporating data applications at 28.8 Kbps under the current universal service definition is a high cost approach that can actually impede more ambitious upgrades.<sup>3</sup> Addressing the data transmission speed issue directly could provide data rates far more “reasonably comparable” to what marketplace forces are already deploying for urban and suburban customers. Put another way, selecting this questionable vehicle for improving data speeds may amount to encouraging the very kind of obsolescent deployment that the RUS (pp. 7, 9) so wisely seeks to avoid.

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access and promoting the same level in rural areas “without detriment to existing rural services.”

<sup>3</sup> SBS, p. 2; NECA, pp. 3-5; Citizens, p.5; Nortel, pp. 3-4; AFC, passim.

NTCA and NECA point out that the Commission will have to provide for increased universal service support in order to extend higher speed Internet access to the places and customers that the marketplace will otherwise neglect. Many rural carriers are using technology such as loading coils to offer high quality voice service that slow data delivery and prevent the bandwidth RUS proposes; they would lose their support under the Commission's current rules if they could not provide the redefined bandwidth.<sup>4</sup> At present, the Commission's "interim" cap on support for rural ILECs, which does not apply to competing ETCs and is thus patently competitively non-neutral, makes upgrading by wireline carriers to provide loops able to pass higher data speeds a lose-lose situation for all high cost rural ILECs. As NECA explains (pp. 3-4), the cap is already preventing rural ILECs from obtaining the full support that the transition mechanism demonstrates they need today. Thus, when any high cost ILEC upgrades and qualifies for additional support, not only does that carrier get inadequate incremental support, but all rural ILECs under the interim cap lose an additional share of their necessary support. It is beyond question, accordingly, that the current capped rural mechanism does not encourage network evolution or deployment of advanced capabilities, in spite of Congress's express directives.

RUS correctly explains in its comments (p.9) that basing support on actual costs does a better job of ensuring that the support ultimately recovered from the nation's ratepayers is spent solely for the universal service purposes and the high cost areas for which it is intended than does theoretical support based on a model. But even when service quality and support are linked by the transitional investment-based support for rural providers, the cap interferes with the

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<sup>4</sup> NTCA, pp. 4-5.

infrastructure investment incentives that are essential to achieve the nationwide advanced network Congress intends. The Commission's incomplete and confusing rules for withdrawing "portable" ILEC support when another universal service provider serves a "captured" or "new" line simply aggravate the incentives not to make the investments Congress sought to stimulate.

Nortel claims (pp. 5-6) that the bandwidth requirement that RUS advocates may make current wireless technologies ineligible for universal service support, to the detriment of wireless providers. The notion is that choosing wireline technology solutions would place wireless providers at a competitive disadvantage by denying them the opportunity to qualify for high cost support. Other industry members believe to the contrary that the RUS's recommended bandwidth solution to speed rural data delivery and Internet access would not apply to any technologies other than wireline telephony. This result would raise ILECs' costs and rates for serving the highest cost wireline customers without competitive choices. It would also place wireline telephone providers at the enormous competitive disadvantage of having to complete major, costly facilities upgrades to qualify for voice grade support, while others would be eligible for support without any changes to provide higher speed Internet access.

Moreover, the Commission's model for non-rural carriers already provides for lines of no more than 18,000 feet in length, as RUS suggests (p. 6). Thus, the Commission may, in effect, have already unofficially amended its definition of supportable universal service for non-rural providers for reasons related to data speed. The Commission should promptly subject the question of an amended definition to the Joint Board scrutiny and statutory considerations set forth in section 254(c)(1) of the law. To achieve nationwide access to Internet at comparable speeds, universal service support is necessary and should be aimed directly at evolving data speed.

Even directly requiring 28.8 Kbps speeds would require substantial additional universal service support, including removal of the cap and additional investment incentives, and would likely not result in comparable rural and urban data speeds.

NRTA believes that the seeds of a workable, competitively neutral policy that would pursue the statutory universal service and broadband deployment requirements far more cost-effectively are in the RUS filing, although not in the context of the RUS's precise proposal to redefine voice grade service requirements. Therefore, NRTA urges the Commission to build on the purpose and several of the elements of the RUS proposal and several other comments' suggestions, as follows:

1. The Commission should move forward its intended proceeding to examine the definition of universal service and take on directly the question of support for speedier Internet access and better data delivery.
2. The Commission should define the data capability and speeds to which universal service should be evolving in terms of bits per second, rather than a bandwidth associated with wireline voice grade service, so that all technologies can have the same definition for supportable universal service, directly related to the purpose of the requirement.
3. The Commission should allow states to "grandfather" carriers providing universal services today in compliance with the current voice grade definition, as RUS recommends (pp. 4, 10), to avoid a mandate for massive stand alone network upgrades for what is probably already an obsolescent standard.
4. The Commission should amend its rules to provide that universal service support will not be wholly unavailable to eligible carriers that have not yet deployed the added "evolved" capabilities.
5. The Commission should amend its rules to provide for increased support for lines that meet the new targeted data speeds, which could be phased in by scaling support payments to achieved levels as RUS suggests (p. 9).
6. The Commission should remove the "interim" cap on rural ILECs' transitional support.
7. The Commission should clarify its rules to provide that an ILEC will only lose support if an additional ETC is designated for its area and actually takes over service to a customer who used to be served by the ILEC or serves a new customer that did not previously subscribe to service.

Respectfully submitted,

**National Rural Telecom Association**

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February 4, 2000



## **CERTIFICATE OF SERVICE**

I, Aileen M. Caffey, of Koteen & Naftalin, hereby certify that true copies of the foregoing NRTA/OPASTCO's Reply Comments on the rulemaking proceeding, CC Docket No. 96-45, have been served on the parties listed below, via first class mail, postage prepaid on the 19th day of January 2000.

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